

Message Text

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ORIGIN L-03

INFO OCT-01 IO-13 ADP-00 COA-02 ACDA-19 COME-00 EB-11

CIAE-00 DODE-00 PM-07 H-02 INR-10 NSAE-00 NSC-10

PA-03 RSC-01 PRS-01 SS-15 USIA-12 AEC-11 AGR-20 SCI-06

CG-00 DOTE-00 FMC-04 INT-08 JUSE-00 NSF-04 OMB-01

TRSE-00 AF-10 ARA-11 EA-11 EUR-25 NEA-10 /231 R

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FM SECSTATE WASHDC

TO USMISSION GENEVA

C O N F I D E N T I A L STATE 128485

E.O. 11652: GDS

TAGS: PBOR

SUBJECT: U.K. DRAFT ARTICLES ON STRAITS

FOR U.S. SEABEDS DELEGATION

1. MR. MAKINS FROM U.K. EMBASSY DELIVERED REVISED U.K. DRAFT ARTICLES ON STRAITS. HE EXPLAINED THAT THESE ARE BASED UPON THE GROUP OF FIVE DISCUSSIONS IN LONDON AND HAVE BEEN DISTRIBUTED TO ALL MEMBERS OF THAT GROUP. UNDOUBTEDLY THEY WILL FORM THE BASIS FOR FURTHER CONSULTATION.

2. BEGIN TEXT: IN THESE ARTICLES THE TERM "MULTINATIONAL STRAIT" MEANS ANY STRETCH OF SEA THROUGH WHICH NO HIGH SEAS ROUTE EXISTS AND WHICH:

A. LIES IN WHOLE OR IN PART WITHIN THE TERRITORIAL
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SEAS OF TWO OR MORE COASTAL STATES;

B. IS USED FOR INTERNATIONAL NAVIGATION BETWEEN ONE PART OF THE HIGH SEAS AND ANOTHER PART OF THE HIGH SEAS.

3. IN MULTINATIONAL STRAITS, ALL SHIPS AND AIRCRAFT ENJOY A RIGHT OF UNINTERRUPTED PASSAGE AND OVERFLIGHT. THE EXERCISE OF THIS RIGHT SHALL NOT BE SUSPENDED OR SUBJECT TO ANY CONDITIONS OTHER THAN THOSE PROVIDED FOR BELOW.

4. THE RIGHT OF PASSAGE SHALL BE EXERCISED IN CONFORMITY WITH THE FOLLOWING PROVISIONS:

A. A SHIP ON PASSAGE THROUGH A MULTINATIONAL STRAIT, AS WELL AS COMPLYING WITH THE INTERNATIONAL REGULATIONS FOR THE PREVENTION OF COLLISIONS AT SEA, SHALL COMPLY WITH REGULATIONS FOR TRAFFIC SEPARATION SCHEMES PROMULGATED BY THE COASTAL STATE IN CONFORMITY WITH RULES AGREED IN APPROPRIATE INTERNATIONAL FORA.

B. A SHIP ON PASSAGE THROUGH A MULTINATIONAL STRAIT SHALL TAKE ALL MEASURES NECESSARY TO AVOID POLLUTION OF THE WATERS AND COASTS OF THE STRAIT AND SHALL OBSERVE THE INTERNATIONALLY AGREED REGULATIONS ON POLLUTION CONTROL PROVIDED FOR IN CHAPTER ARTICLE OF THIS CONVENTION (PROTECTION OF THE MARINE ENVIRONMENT). REGARDING THE DISCHARGE OF POLLUTANTS INTO THE SEA A SHIP ON PASSAGE SHALL OBSERVE THE REGULATIONS PROMULGATED BY THE COASTAL STATE IN CONFORMITY WITH CHAPTER, ARTICLE OF THIS CONVENTION (PROTECTION OF THE MARINE ENVIRONMENT).

C. A SHIP ON PASSAGE THROUGH A MULTINATIONAL STRAIT SHALL NOT ENGAGE IN ACTS OF A NATURE UNRELATED TO PASSAGE. PASSAGE SHALL BE CONTINUOUS AND EXPEDITIOUS, IN SO FAR AS THIS CONFORMS WITH THE REQUIREMENTS OF SAFE NAVIGATION. IN PARTICULAR, A SHIP ON PASSAGE SHALL NOT UNDERTAKE HYDROGRAPHIC SURVEYING,

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AND A WARSHIP SHALL NOT ENGAGE IN ANY WARLIKE EXERCISES, INCLUDING WEAPON PRACTICE, NOR LAUNCH ITS AIRCRAFT EXCEPT IN AN EMERGENCY OR FOR THE PURPOSE OF SAVING HUMAN LIFE.

5. COASTAL STATES SHALL HAVE JURISDICTION OVER A SHIP EXERCISING THE RIGHT OF PASSAGE THROUGH A MULTINATIONAL STRAIT WITH RESPECT TO VIOLATIONS OF LAWS AND REGULATIONS

ENACTED BY THEM IN CONFORMITY WITH THESE ARTICLES. IN CASES OF GRAVE AND IMMINENT DANGER TO A COASTAL STATE, THAT STATE MAY ARREST ANY SHIP NOT COMPLYING WITH SUCH LAWS AND REGULATIONS, EXCEPT A SHIP ENTITLED TO SOVEREIGN

IMMUNITY UNDER INTERNATIONAL LAW. HOWEVER, WHEN IN SUCH CASES OF GRAVE AND IMMINENT DANGER A SHIP ENTITLED TO SOVEREIGN IMMUNITY DOES NOT COMPLY WITH SUCH LAWS AND REGULATIONS, AND DISREGARDS ANY REQUEST FOR COMPLIANCE WHICH IS MADE TO IT, THE COASTAL STATE MAY REQUIRE THE SHIP TO LEAVE.

6. COASTAL STATES MAY DESIGNATE SPECIAL AIR CORRIDORS SUITABLE FOR OVERFLIGHT BY AIRCRAFT AND MAY ESTABLISH PROCEDURES FOR RADIO COMMUNICATION WITH THEM. SUCH CORRIDORS MAY BE OVER THE WATERS OF A MULTINATIONAL STRAIT OR MAY BE EQUIVALENT CORRIDORS OVER LAND, AND MAY BE WITHIN EXISTING AIR LANES. IN EITHER CASE, A CORRIDOR SHALL NOT BE DESIGNATED IN SUCH A WAY AS TO CUT OFF ACCESS TO ANY STATE.

7. THE PROVISIONS OF THESE ARTICLES:

A. SHALL NOT APPLY TO THOSE STRAITS GIVING ACCESS TO ARCHIPELAGIC WATERS, WHICH ARE PROVIDED FOR IN ARTICLE(S)

B. SHALL NOT AFFECT THE RIGHTS OF A COASTAL STATE WITH RESPECT TO THE LIVING AND MINERAL RESOURCES OF THE SEA, THE SEA BED, AND THE SUBSOIL OF THE SEABED OF A MULTINATIONAL STRAIT. HOWEVER THESE RIGHTS SHALL NOT BE EXERCISED IN SUCH A WAY AS TO HAMPER
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THE RIGHT OF UNINTERRUPTED PASSAGE PROVIDED FOR IN THESE ARTICLES;

C. SHALL NOT AFFECT THE LEGAL REGIME OF STRAITS THROUGH WHICH PASSAGE IS REGULATED BY INTERNATIONAL AGREEMENTS IN FORCE ON(DATE OF TABLING OF THESE DRAFT ARTICLES) SPECIFICALLY RELATED TO SUCH STRAITS.

D. SHALL NOT AFFECT THE LEGAL REGIME OF PASSAGE AND OVERFLIGHT THROUGH AND OVER STRAITS WHICH ARE NOT MULTINATIONAL STRAITS WITHIN THE MEANING OF THESE

8. NOTE: IT IS ENVISAGED THAT THESE ARTICLES WOULD BE
SUBJECT TO THE GENERAL PROCEDURES FOR THE SETTLEMENT OF
DISPUTES PROVIDED FOR ELSEWHERE IN THE CONVENTION. END
TEXT. ROGERS

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